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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/558,938

12/01/2005

Wilhelm Hofmann

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PATENT CENTRAL LLC
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EXAMINER

FREAY, CHARLES GRANT

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

01/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/558,938	Applicant(s) HOFMANN ET AL.	
	Examiner Charles G. Freay	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

This office action is responsive to the preliminary amendment of December 1, 2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-5 are vague and indefinite because it is unclear what the scope of the invention set forth in claim 1 is intended to be. The claim sets forth structure for the entire pump and the control system. However, the preamble sets forth that the claimed invention is for a device for controlling the pump. It is unclear if the claims are directed to the pumping system or to just the control device. Furthermore, line 22 and 26 also refer to a device responsive to the signals and controlling the reversible drive pump. It is as written unclear if this is intended to be the same device which the claimed invention is directed to or a subcomponent of the larger control device.

In claim 1 line 6 the phrase "via hydraulic dive cylinders control by the reversible pump" is confusing. The examiner would suggest replacing "control" with "driven".

Claim 1 recites the limitation "its inlet side" and "the outlet side" in lines 8, 9 and 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitations "the rod ends" and "the base ends" in lines 19 and 20. There is insufficient antecedent basis for this limitation in the claim. Furthermore, there is no antecedent basis for a "rod" in the claim.

In claim 1 lines 22 and 23 are confusing because the outlet of a selected switch sensor is referred to. The claim sets forth plural switch sensors and it is unclear which would be the selected switch and how this would be determined. Additionally in line 23 the claim sets forth that the device "switches or reverses the reversible pump". This is confusing because the pump is only set forth as being reversible. It is unclear if a reference to the pipe switch is being made.

In claim 2 line 3 the phrase "the time of the piston passage at the location of the cylinder switch sensors" is confusing. The examiner believes that a time for piston travel between the sensors was intended.

In claim 2 line 4 and 5 it is unclear if the limitation of "a therefrom derived initiation time" is the same as the "derived initiation time" of claim 1.

In claims 4 and 5 there is no antecedent basis for the "derived initiation point". The examiner believes these claims should be properly dependant upon claim 3 which introduces this limitation.

Regarding claim 4, the phrase "preferably input via a remote control" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). It is unclear if this limitation is

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intended to further limit the claim and if a remote control device is being claimed as part of the invention.

In claim 6 line 6 the phrase "via hydraulic dive cylinders control by the reversible pump" is confusing. The examiner would suggest replacing "control" with "driven".

Claim 6 recites the limitation "its inlet side" and "the outlet side" in lines 8 and 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 6, line 14 recites the limitations "the rod and base side ends" in line 14. There is insufficient antecedent basis for this limitation in the claim. Furthermore, there is no antecedent basis for a "rod" in the claim.

In claim 7 line 5 the reference to "the initiation point" is confusing. An initiation time point had previously been set forth in claim 6. The removal of "time" makes it unclear of the same point is being referred to or if a position of initiation is being newly claimed. For similar reasons claim 8-10 are also confusing.

In claim 8 line 3 there is no antecedent basis for "the selected ... sensors" and it is unclear how the selection was made.

In claim 9 line 5 there is no antecedent basis for "the computed movement sequence"

In claim 9 line 6 is confusing. Claim 9 is a method claim and the phrase "taking into consideration a thereby modified brake time", makes the claim unclear because as worded it is unclear if the applicant intended the computation step of determining the modified brake time to be part of the method.

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In claim 10 line 4 there is no antecedent basis for "the collective..piston speed" and it is unclear what this variable represents.

Allowable Subject Matter

Claims 1-10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: the prior art neither discloses nor makes obvious a device for controlling or a method of controlling a thick matter pump having structure as set forth in the claims including switch sensors spaced from the base and rod ends of the drive cylinders and a controller responsive thereto for determining a temporal displacement of the piston on its way between the cylinder ends as well as for computing a derived initiation time for the subsequent reversing of the reversible pump and the pipe switch.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anderson, Dose et al, Mannhart et al, Munzenmaier et al, Kwag and Olson disclose similar thick matter pump measuring and control systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G. Freay whose telephone number is 571-272-4827. The examiner can normally be reached on Monday through Friday 8:30 A.M. to 5:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles G Freay/
Primary Examiner
Art Unit 3746

CGF
January 5, 2009